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Ghanaian Disputes U.S. Right to Indict Him

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A Ghanaian native is to go on trial in Alexandria later this month on a charge of espionage in a case that raises a novel legal issue: Can a foreigner be tried in an American court for acts that were, for the most part, committed outside the United States?

The Justice Department says it can and is seeking to have Michael Agbotui Soussoudis, a first cousin of Ghana's leader, Flight Lt. Jerry Rawlings, tried in Alexandria on charges growing from his relationship with a former Central Intelligence Agency employee from Virginia who has pleaded guilty to giving him classified information.

Soussoudis' lawyers have asked that his indictment be dismissed on the grounds that the United States cannot prosecute a foreigner for alleged criminal actions not committed under U.S. jurisdiction.

The indictment is "an attempt to preclude lawful counterintelligence activity by a foreign national acting in his own country allegedly at the direction of officials of that country," his lawyers said in a motion filed in Alexandria. The motion will be argued Friday.

Government prosecutors concede that all of Soussoudis' alleged acts except one occurred in Ghana at the direction of the West African country's intelligence service. The act that occurred in the United

States was his trip to a Holiday Inn in Northern Virginia to meet with the CIA employee, Sharon Scranage. Government prosecutors say that Soussoudis' visit to Springfield is enough to support its charges. The "defendant's actions compromised the CIA's entire operation in Ghana," the government states, adding that his prosecution was "instigated at the highest levels of the executive branch after careful consideration of its implications for American foreign policy."

Moreover, the prosecutors noted that, while Soussoudis held a Ghanaian passport, he also has been a permanent resident alien of the United States since 1970.

This status means that "there is no question about whether the Espionage Act reaches his activity abroad," the prosecutors state in their legal brief.

"The indictment represents an attempt to protect vital American intelligence information from being obtained by foreign governments through the recruitment of CIA employees to engage in treasonable espionage . . . [and] is not an attempt to prevent the Ghanaian government from pursuing normal counterintelligence activity; nor does it have that effect," the U.S. government's lawyers declared in their brief.

Earlier this year, East German Alfred Zehe was arrested in Boston and charged with espionage based

on acts that occurred in East Berlin and Mexico City. Zehe pleaded guilty to four counts of espionage and later was traded in a spy swap with East Germany.

Legal experts differ on whether the courts have authority to act in such cases.

"For our law to apply to criminal conduct of aliens in a foreign country would violate international public law," said Covey T. Oliver, visiting professor of law at American University.

But Harvard University law professor Abram Chayes said that "it's possible for a country to exercise jurisdiction over a nonnational . . . in order to protect interests of supreme importance."

Such a case is rare, Chayes added, mainly because "it doesn't usually happen that a person wanders into the country and leaves himself exposed to arrest."



MICHAEL AGBOTUI SOUSSOUDIS
... alleged crimes occurred in Ghana